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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,949	07/14/2003	Monique Francoise Craig	504/2	6411
7590	08/25/2004		EXAMINER	
KAPLAN & GILMAN L L P 900 Route 9 North Woodbridge, NJ 07095			SWIATEK, ROBERT P	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/618,949	CRAIG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert P. Swiatek	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 01 June 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 4-23 is/are pending in the application.
- 4a) Of the above claim(s) 5,14,15 and 17-23 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 4,6-13 and 16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

Applicants' 1 June 2004 response to the election requirement is acknowledged. Claims 4, 6-13, 16 are deemed to "read" on elected Figure 1. The remaining claims are considered withdrawn.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 6, 7, 11, 12, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Freyne (US 561,217). The Freyne horseshoe includes a first part C and a second part A extending inwardly from the first part and considered to overlie at least a portion of the frog of the hoof. Second part A by virtue of its rubber construction has greater resiliency and is less hard than metallic first part C. As to claim 16, the unobscured, central portion of the Freyne horseshoe is considered to constitute a generic "aperture."

Claims 4, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hourlier (US 3,490,536). The Hourlier horseshoe is constructed from an upper first part D of hard plastic material and a lower second part M of softer plastic material. A lip M<sub>S</sub> of the softer plastic material extends inwardly from and around the first part D to overlie a sole portion of the horse's hoof. Second part M is considered to be of greater resiliency than first part D.

Claims 4, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherman (US 3,513,915). The Sherman patent depicts a horseshoe 30 having a first part 32 and a second part 11A extending inwardly from the first part to overlie a sole portion of the horse's hoof. The resiliency of the second part is greater than that of the first part due to its thinner transverse cross-section, i.e., its geometric shape.

Claims 4, 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Thoman (US 4,892,150). The patent to Thoman discloses a horseshoe 34 having a first part 36 and an inwardly-extending second part 24 in the form of a plurality of leaves. The leaves overlie the hoof sole, are made from the same material as first part 36, and are more resilient than the first part due to the presence of v-shaped cutaway portions, or voids, which act to both form and separate the leaves.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thoman in view of Rynningen (US 6,467,548 B1). The Thoman horseshoe lacks stand-offs on the sole side of the first part. However, it would have been obvious to one skilled in the art to employ stand-offs with the first part 36 of Thoman, in view of the patent to Rynningen that such stand-offs or protrusions (see element 43 of Rynningen) space the bottom surface of the hoof from the top surface of the first horseshoe member, facilitating flow of a liquid adhesive between the hoof and shoe and creating a resultant tighter bond.

In claim 4, line 4, "overly" should be changed to -overlie-.

Applicants' arguments filed 1 June 2004 have been fully considered but they are not persuasive. Claims 4, 6-13, 16 are not believed allowable for the reasons set forth above.

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Summary: Claims 1-3 have been cancelled; claims 4, 6-13, 16 have been rejected; claims 5, 14, 15, 17-23 have been withdrawn.

RPS: 0703/308-2700  
20 August 2004

*Robert P. Swiatek*  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 322 3643